

**FILED**

SEP 10 2013

Clerk, U.S. District Court  
District Of Montana  
Missoula

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

SHANE MCCLANAHAN,

Plaintiff,

vs.

LEROY KIRKEGARD, et al.,

Defendants.

CV 13-0002-H-DLC-RKS

ORDER

United States Magistrate Judge Keith Strong entered Findings and Recommendation on August 5, 2013 and recommended dismissing Plaintiff Shane McClanahan's amended complaint with prejudice for failure to state a claim for relief against any of the named Defendants. Plaintiff did not timely object to the Findings and Recommendations, and so has waived the right to *de novo* review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

McClanahan filed his amended complaint after being granted leave by

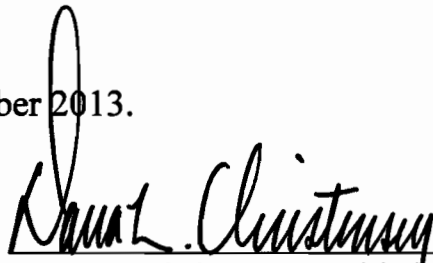
Judge Strong in his Order of March 25, 2013. Judge Strong found that the amended complaint failed to state a federal claim for relief because it neither alleged specific conduct by the Defendants nor implicated a liberty interest. Further, Judge Strong concluded that McClanahan has been given an opportunity to amend defects in his original complaint and failed to do so. After a review of Judge Strong's Findings and Recommendation, I find no clear error. Accordingly,

IT IS HEREBY ORDERED that Judge Strong's Findings and Recommendation (doc. 11) are adopted in full. This matter is DISMISSED WITH PREJUDICE.

The Clerk of Court is directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that the docket shall reflect that the Court certifies pursuant to Fed.R.App.P. 24(a)(3)(A) that any appeal of this decision would not be taken in good faith. The docket shall also reflect this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g).

Dated this 10<sup>th</sup> day of September 2013.

  
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Dana L. Christensen, Chief Judge  
United States District Court